



## UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C. 20531  
WWW.USPTO.GOV

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/002,536	11/01/2001	Michael D. Kane	65446-0087

010291  
RADER, FISHMAN & GRAUER PLLC  
39533 WOODWARD AVENUE  
SUITE 140  
BLOOMFIELD HILLS, MI 48304-0610



CONFIRMATION NO. 3282

## FORMALITIES LETTER

RECEIVED JUL 23 2002  
"0000000007345282"

Date Mailed: 01/23/2002

## NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION RECEIVED

FILED UNDER 37 CFR 1.53(b)

JUL 29 2002

Filing Date Granted

OFFICE OF PETITIONS

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is missing.  
*A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.*
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of \$65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.
- The balance due by applicant is \$ 65.
- This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29820 (June 1, 1998) and 1211 OG 82 (June 23, 1998). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing", an initial paper or compact disc copy of the "Sequence Listing", as well as an amendment directing its entry into the application. Applicant must also provide a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

For questions regarding compliance to these requirements, please contact:

07/26/2002 RNDHDF1 00000178 180013 10002536

01 FC:205

65.00 CH

- For Rules Interpretation, call (703) 308-4216
  - To Purchase PatentIn Software, call (703) 306-2600
  - For PatentIn Software Program Help, call (703) 306-4119 or e-mail at [patin21help@uspto.gov](mailto:patin21help@uspto.gov) or [patin3help@uspto.gov](mailto:patin3help@uspto.gov)
- 

*A copy of this notice MUST be returned with the reply.*



Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 1 - ATTORNEY/APPLICANT COPY

#3



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Kane et al. Group Art Unit: TBA  
Serial No.: 10/002,536 Examiner: TBA  
Filed: November 1, 2001  
For: COMPOSITIONS AND SYSTEMS FOR IDENTIFYING AND  
COMPARING EXPRESSED GENES (mRNAs) IN EUKARYOTIC  
ORGANISMS

BOX MISSING PARTS  
Commissioner for Patents  
Washington, D.C. 20231

RECEIVED  
JUL 29 2002  
OFFICE OF PETITIONS

RESPONSE TO NOTICE TO FILE MISSING PARTS OF  
NONPROVISIONAL APPLICATION FIELD UNDER 37 CFR 1.53(b)

Dear Sir:

A Notice to File Missing Parts of Non-Provisional Application was mailed on January 23, 2002. A copy of the Notice is enclosed. As indicated in the Notice, the Declaration and Oath was considered missing. The properly signed Declaration and Oath in compliance with 37 CFR 1.63 is enclosed herewith for co-inventors Michael D. Kane and Aaron C. Nagel. To date, co-inventor Alan A. Dombkowski has refused to sign the Declaration. Therefore, a Petition Pursuant To 37 CFR 1.47 Involving The Refusal Of A Co-Inventor To Execute The Power Of Attorney/Declaration is also enclosed.

Also enclosed in response to the Notice are: (1) an initial CRF copy of a Sequence Listing; (2) an initial floppy disc copy of the Sequence Listing; (3) a Preliminary Amendment directing its entry into the application; and (4) a Statement that the content of the Sequence Listing information recorded in CRF from is identical to the written Sequence Listing.


08/28/2002 AKELLEY 00000006 180013 10002536  
01 FC:122 136.00 CH

The declaration surcharge fee of \$65.00 and four (4) month extension fee of \$720.00 may be charged to Deposit Account No. 18-0013 in the name of Rader, Fishman & Grauer PLLC. It is believed that no further fees are due with respect to this Response. However, if necessary, any additional fee with respect to this paper may be charged to the same Deposit Account.

Respectfully submitted,

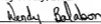
Date: July 23, 2002

Customer No. 010291

  
\_\_\_\_\_  
James F. Kamp, Reg. No. 41,882  
Christopher J. Voci, Reg. No. 45,184  
Attorneys for Applicants  
RADER, FISHMAN & GRAUER PLLC  
39533 Woodward, Suite 140  
Bloomfield Hills, MI 48304  
Telephone No. (248) 594-0600

**CERTIFICATE OF MAILING**

I hereby certify that the enclosed Response To Notice To Filing Missing Parts Application-Filing Date Granted is being deposited with the United States Postal Service, as Express Mail, No. EV 064 962 925 US, postage prepaid, in an envelope addressed to Box Missing Parts, Commissioner of Patents Washington, D.C. 20231, on this 23<sup>rd</sup> day of July, 2002.

  
\_\_\_\_\_  
Wendy Balaban

R0153575.DOC

JUL 23 2002

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Kane et al.

Application No.: 10/002,536

Group No.: TBA

Filed: November 1, 2001

Examiner: TBA

For: COMPOSITIONS AND SYSTEMS FOR IDENTIFYING AND COMPARING EXPRESSED GENES (mRNAs) IN EUKARYOTIC ORGANISMS

**BOX MISSING PARTS**  
**Commissioner for Patents**  
**Washington, D.C. 20231**

**COMPLETION OF FILING REQUIREMENTS**  
**—NONPROVISIONAL APPLICATION**

(check and complete this item, if applicable)

- I. ☒ This reply to the Notice to File Missing Parts of Application (PTO-1533) mailed January 23, 2002.

*NOTE: If these papers are filed before the office letter issues, adequate identification of the original papers should be made, e.g., in addition to the name of the inventor and title of invention, the filing date based on the "Express Mail" procedure, the serial number from the return post card or the attorney's docket number added.*

- ☒ A copy of the Notice to File Missing Parts of Application—Filing Date Granted (Form PTO-1533) is enclosed.

*NOTE: The PTO requires that a copy of Form PTO-1533 be returned with the response to the notice to file missing parts to the application.*

**DECLARATION OR OATH**

- II. ☒ No declaration or oath was filed. Enclosed is the original declaration or oath for this application.

**CERTIFICATE OF MAILING/TRANSMISSION (37 C.F.R. 1.8(a))**

I hereby certify that, on the date shown below, this correspondence is being:

**MAILING**

- ☒ deposited with the United States Postal Service with sufficient postage as express mail no. EV 064 962 925 US in an envelope addressed to: Box Missing Parts, Commissioner for Patents, Washington, D.C. 20231.

**FACSIMILE**

- ☐ transmitted by facsimile to the Patent and Trademark Office.

Signature

Wendy Balaban

(type or print name of person certifying)

Date: July 23, 2002

(Completion of Filing Requirements-Nonprovisional Application -page 1 of 7)

NOTE: If the correct inventor or inventors are not named on filing a nonprovisional application under § 1.53(b) without an executed oath or declaration under § 1.63, the later submission of an executed oath or declaration under § 1.63 during the pendency of the application will act to correct the earlier identification of inventorship. 37 C.F.R. § 1.48(f)(1).

OR

- ☐ The declaration or oath that was filed was determined to be defective. A new original oath or declaration is attached.

NOTE: For surcharge fee for filing declaration after filing date complete item VI(3) below.

NOTE: The following combinations of information supplied in an oath or declaration filed after the filing date are acceptable as minimums for identifying a specification and compliance with any one of the items below will be accepted as complying with the identification requirement of 37 C.F.R. § 1.63:

"(1) name of inventor(s), and application number (consisting of the series code and the serial number; e.g., 08/123,456);

"(2) name of inventor(s), serial number and filing date;

"(3) name of inventor(s) and attorney docket number which was on the specification as filed;

"(4) name of inventor(s), title which was on the specification as filed and filing date;

"(5) name of inventor(s), title which was on the specification as filed and reference to an attached specification which is both attached to the oath or declaration at the time of execution and submitted with the oath or declaration; or

"(6) name of inventor(s), title which was on the specification as filed and accompanied by a cover letter accurately identifying the application for which it was intended by either the application number (consisting of the series code and the serial number; e.g., 08/123,456), or serial number and filing date. Absent any statement(s) to the contrary, it will be presumed that the application filed in the PTO is the application which the inventor(s) executed by signing the oath or declaration."

Notice of Jul. 13, 1995 (1177 O.G. 60); M.P.E.P. § 601.01(a), 6th ed., rev. 3.

NOTE: Another minimum found acceptable in the declaration is the filing date (i.e., date of express mail) and the express mail number, useful where the serial number is not yet known. But note the practice where the express mail deposit is a Saturday, Sunday or holiday within the District of Columbia. 37 C.F.R. § 1.10(c).

(complete (c) or (d), if applicable)

Attached is a

- (c) ☐ Statement by a registered attorney that the application filed in the PTO is the application that the inventor executed by signing the declaration.
- (d) ☐ Statement that the "attached" specification is a copy of the specification and any amendments thereto that were filed in the PTO to obtain the filing date.

AMENDMENT CANCELING CLAIMS

- III. ☐ Cancel claims \_\_\_\_\_ inclusive.

SEQUENCE LISTING

- IV. ☒ (a) Initial CRF copy of a Sequence Listing  
(b) Initial Floppy Disc Copy of the Sequence Listing  
(c) Preliminary Amendment directing its entry into the application; and  
(d) Statement regarding Content of Sequence Listing

TRANSMITTAL OF ENGLISH TRANSLATION  
OF NON-ENGLISH LANGUAGE PAPERS

- V. ☐ Submitted herewith is an English translation of the non-English language application papers as originally filed. Also submitted herewith is a statement by the translator of the accuracy of the translation. It is requested that this translation be used as the copy for examination purposes in the PTO.

NOTE: For fee processing a non-English application, complete item VI(5) below.

NOTE: A non-English oath or declaration in the form provided or approved by the PTO need not be translated. 37 C.F.R. § 1.69(b).

NOTE: The translation for a regular application filed in a foreign language must be verified. 37 C.F.R. § 1.52(d).

SMALL ENTITY STATUS

- VI. ☐ A statement that this filing is by a small entity  
(check and complete applicable items)
- ☐ is attached.
- ☐ A separate refund request accompanies this paper.
- ☐ was filed on \_\_\_\_\_ (original).

RECEIVED  
JUL 29 2002  
OFFICE OF PETITIONS

COMPLETION FEES

VII.

WARNING: Failure to submit the surcharge fees where required will cause the application to become abandoned. 37 C.F.R. § 1.53.

NOTE: For effect on fees of failure to establish status, or change status, as a small entity, see 37 C.F.R. § 1.28(a).

1. Filing fee

- ☐ original patent application  
(37 C.F.R. § 1.16(a))--\$760.00; small entity--\$380.00 \$ \_\_\_\_\_
- ☐ design application  
(37 C.F.R. § 1.16(f))--\$310.00; small entity--\$155.00 \$ \_\_\_\_\_

2. Fees for claims

- ☐ each independent claim in excess of 3  
(37 C.F.R. § 1.16(b))--\$78.00; small entity--\$39.00 \$ \_\_\_\_\_
- ☐ each claim in excess of 20  
(37 C.F.R. § 1.16(c))--\$18.00; small entity--\$9.00 \$ \_\_\_\_\_
- ☐ multiple dependent claim(s)

(37 C.F.R. § 1.16(d))--\$260.00; small entity--\$130.00) \$ \_\_\_\_\_

3. Surcharge fees

☐ late payment of filing fee  
(37 C.F.R. § 1.16(e))--\$130.00; small entity--\$65.00) \$ \_\_\_\_\_

and/or

☒ late filing of original declaration or oath  
(37 C.F.R. § 1.16(e))--\$130.00; small entity--\$65.00) \$ 65.00

*NOTE: Even where a facsimile declaration or oath signed by the inventor(s) was part of the originally filed papers, the surcharge fee is required.*

*NOTE: If both the filing fee and declaration or oath were missing from the original papers, only one surcharge fee for both need be paid. 37 C.F.R. § 1.16(e).*

4. ☐ Petition and fee for filing by other than  
all the inventors or a person not the inventor  
(37 C.F.R. §§ 1.17(i) and 1.47--\$130.00) \$ \_\_\_\_\_

5. ☐ Fee for processing an application filed with  
a specification in a non-English language  
(37 C.F.R. §§ 1.17(k) and 1.52(d))--\$130.00) \$ \_\_\_\_\_

6. ☐ Fee for processing and retention of application  
(37 C.F.R. §§ 1.21(l) and 1.53(d))--\$130.00) \$ \_\_\_\_\_

7. ☐ Assignment (See "ASSIGNMENT COVER SHEET".) \$ \_\_\_\_\_

*NOTE: 37 C.F.R. § 1.21(l) establishes a fee for processing and retaining any application which is abandoned for failing to complete the application pursuant to 37 C.F.R. § 1.53(f) and this, as well as, the changes to 37 C.F.R. § 1.53 and 1.78 indicate that in order to obtain the benefit of a prior U.S. application, either the basic filing fee or the processing and retention fee of § 1.21(l) within 1 year of notification under § 1.53(f) must be paid.*

Total completion fees \$ 65.00

### EXTENSION OF TIME

#### VIII.

*(complete (a) or (b), as applicable)*

The proceedings herein are for a patent application, and the provisions of 37 C.F.R. § 1.136(a) apply.

- (a) ☐ Applicant petitions for an extension of time, the fees for which are set out in 37 C.F.R. § 1.17(a)(1)-(4), for the total number of months checked below:

Extension (months)	Fee for other than <u>small entity</u>	Fee for <u>small entity</u>
<input type="checkbox"/> one month	\$ 110.00	\$ 55.00
<input type="checkbox"/> two months	\$ 400.00	\$200.00
<input type="checkbox"/> three months	\$ 920.00	\$460.00
<input checked="" type="checkbox"/> four months	\$1,440.00	\$720.00
<input type="checkbox"/> five months	\$1,960.00	\$980.00

Fee \$720.00

If an additional extension of time is required, please consider this a petition therefor.

*(check and complete the next item, if applicable)*

- (a) ☐ An extension for \_\_\_\_\_ months has already been secured, and the fee paid therefor of \$ \_\_\_\_\_ is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request \$ \_\_\_\_\_.

OR

- (b) ☐ Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

### TOTAL FEE DUE

#### IX.

The total fee due is

Completion fee(s) \$ 65.00  
Extension fee (if any) \$ 720.00

Total Fee Due \$785.00

### PAYMENT OF FEES

X.

- ☐ Enclosed is a check in the amount of \$ \_\_\_\_.
- ☒ Charge Account No. 18-0013 in the amount of \$ 785.00  
A duplicate of this request is attached.

**NOTE:** Fees should be itemized in such a manner that it is clear for which purpose the fees are paid. 37 C.F.R. § 1.22(b).

Please charge Account No. 18-0013 for any fees which may be due by this paper.

### AUTHORIZATION TO CHARGE ADDITIONAL FEES

XI.

**WARNING:** Accurately count claims, especially multiple dependent claims, to avoid unexpected high charges if extra claims are authorized.

**NOTE:** "Amounts of twenty-five dollars or less will not be returned unless specifically requested within a reasonable time, nor will the payer be notified of such amounts; amounts over twenty-five dollars may be returned by check or, if requested, by credit to a deposit account." 37 C.F.R. § 1.26(a).

- ☒ The Commissioner is hereby authorized to charge the following additional fees that may be required by this paper and during the pendency of this application to Account No. 18-0013.
- ☒ 37 C.F.R. § 1.16(a), (f) or (g) (filing fees)
- ☒ 37 C.F.R. § 1.16(b), (c) and (d) (presentation of extra claims)

**NOTE:** Because additional fees for excess or multiple dependent claims not paid on filing or on later presentation must only be paid or these claims cancelled by amendment prior to the expiration of the time period set for response by the PTO in any notice of fee deficiency (37 C.F.R. § 1.16(d)), it might be best not to authorize the PTO to charge additional claim fees, except possibly when dealing with amendments after final action.

- ☒ 37 C.F.R. § 1.16(e) (surcharge for filing the basic filing fee and/or declaration on a date later than the filing date of the application)
- ☒ 37 C.F.R. § 1.17(a)(1)-(5) (extension fees pursuant to § 1.136(a)).
- ☒ 37 C.F.R. § 1.17 (application processing fees)

**NOTE:** "A written request may be submitted in an application that is an authorization to treat any concurrent or future reply, requiring a petition for an extension of time under this paragraph for its timely submission, as incorporating a petition for extension of time for the appropriate length of time. An authorization to charge all required fees, fees under § 1.17, or all required extension of time fees will be treated as a constructive petition for an extension of time in any concurrent or future reply requiring a petition for an extension of time under this paragraph for its timely submission. Submission of the fee set forth in § 1.17(a) will also be treated as a constructive petition for an extension of time in any concurrent reply requiring a petition for an extension of time under this paragraph for its timely submission." 37 C.F.R. § 1.136(a)(3).

- ☐ 37 C.F.R. § 1.18 (issue fee at or before mailing of Notice of Allowance, pursuant to 37 C.F.R. § 1.311(b))

**NOTE:** Where an authorization to charge the issue fee to a deposit account has been filed before the mailing of a Notice of Allowance, the issue fee will be automatically charged to the deposit account at the time of mailing the notice of allowance. 37 C.F.R. § 1.311(b).

*NOTE: 37 C.F.R. § 1.28(b) requires "Notification of any change in loss of entitlement to small entity status must be filed in the application . . . prior to paying, or at the time of paying . . . issue fee . . ." From the wording of 37 C.F.R. § 1.28(b): (a) notification of change of status must be made even if the fee is paid as "other than a small entity" and (b) no notification is required if the change is to another small entity.*

Date:

7/23/02

Reg. No.: 41,882

Reg. No.: 45,184

Tel. No.: (248) 594-0656

Customer No. 010291

  
SIGNATURE OF PRACTITIONER

James F. Kamp

Christopher J. Voci

Rader, Fishman & Grauer PLLC

39533 Woodward Avenue,

Suite 140

Bloomfield Hills, Michigan 48304

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